

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA

VERSUS

CRIMINAL ACTION NO. 1:05CR17-P-D

JULIAN MINGO

ORDER

This cause is before the Court on the defendant's Motion to Suppress Video Tape [44] and Amended Motion to Suppress Video Tape [48]. The Court, having reviewed the motion, the response, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That the motion is not well-taken and should be denied. The sole basis for defendant's motion is his contention that the search of his home was illegal because Columbus, Mississippi officer seized the videotape in Oktibbeha County without lawful authority. This argument is unavailing in the face of the incontrovertible evidence that defendant Mingo consented to the search of his residence and to the seizure of any item the searching officers considered to have evidentiary value.

Both Mississippi and the Fifth Circuit recognize that consent of the defendant is sufficient to allow officers outside their geographic boundary of authority to search. Byrd v. Mississippi, 173 So. 282, 284 (1937); U.S. v. James, 423 F.2d 991, 992 (5th Cir. 1970). Based on those authorities, the Court concludes that the search and ultimate seizure of the video tape was in all respects lawful and comported with applicable constitutional standards.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendant's Motion to Suppress Video Tape [44] and Amended Motion to Suppress Video Tape [48] is not well-taken and should be, and hereby is, DENIED.

SO ORDERED, this the 15th day of September, 2005.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE